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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,327	10/27/2005	Jingnan Huang	L4050.0002	3523
32173 7590 10/23/2008 DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) NEW YORK, NY 10036-2714				
EXAMINER				
KIM, HEE SOO				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/527,327

**Applicant(s)**

HUANG ET AL.

**Examiner**

HEE SOO KIM

**Art Unit**

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to amendment filed on July 29<sup>th</sup>, 2008.

Claims 1, 6, and 14 have been amended.

Claims 1~14 are presented for examination.

#### ***Response to Amendment***

Newly submitted drawing of Fig. 1 has been submitted to comply with the requirements of 37 CFR 1.121(d) and thus, withdrawn.

Claims 1, 6, and 14 have been amended to comply with the requirements of 35 USC § 112 ¶2<sup>nd</sup> rejection and thus, withdrawn.

#### ***Response to Arguments***

Applicant's arguments filed 7/29/08 have been fully considered but they are not persuasive.

In response to applicant's argument (Pg. 9, ¶1), that one of ordinary skill in the art having the Napster reference would not look to a Microsoft patent and would not seek to combine a Linux based Napster Client/server protocol with that of Swift reference. Examiner respectfully disagree. Although the disclaimer stated that "the following information was gathered by analyzing the protocol between the Linux nap client and may not resemble the official Windows client protocol", it was well-known in the art that Napster was implemented and compatible in both Windows and Linux environments. Furthermore, the website in which the art was obtained from, <http://opennap.sourceforge.net/>, clearly shows the program compatible with Windows NT/2000 (see below):

## Status

Current release is 0.44-BETA (released September 30, 2001).

opennap has been tested on the following platforms:

- POSIX systems: Linux (alpha, i386, sparc, ppc), BSDI, Solaris, FreeBSD, IRIX,
- OS/2
- Windows 95/98/NT/2000

Therefore, one of ordinary skill in the art would have combined both Napster and the Swift references for the purposes of providing a safer and more reliable communication between the peer devices.

Thus, in view of such, the rejection is sustained as follows:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1~14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Napster Client/Server protocol hereinafter Napster in view of Swift et al. hereinafter Swift (U.S. 6,377,691).

Regarding Claim 1,

Napster taught a method of peer-to-peer connecting devices when implementing dynamic networking, including a connection creating method and a connection disconnecting method of peer-to-peer devices, which is characterized in that:

a connection configuration is performed to all devices requiring a peer-to-peer connection, which includes configuring account information containing a user name and a password for allowing connections and a maximum parallel connection number allowed by a device (Pg. 2, Msg. 2, Client login message denotes nickname and password; Pg. 15, Msg. 619 and 620, Client/Server may limit the number of downloads from a particular client);

said connection creating method of peer-to-peer devices includes the steps of:

sending a device connecting request from a connection initiating device in the home network to a connection target device in the network (Pg. 4, Msg. 200, Client searches for file of interest; Pg. 5, Msg. 203, Client requests to download file from user with the file of interest);

said connection disconnecting method of peer-to-peer devices includes the steps of:

sending a connection disconnecting message from the connection initiating device or the connection target device to the other (Pg. 9, Msg. 316, Server sends a message when client is about to be disconnected);

**determining**, by the connection target device or the connection initiating device which receives the connection disconnecting message, that the connection has been disconnected (Pg. 18, Msg. 751, Client pings <user> connection to determine if connection is alive. Implicitly determines whether the user is disconnected or banned).

Napster did not explicitly teach generating a connection challenge value randomly by the connection target device and sending it to the connection initiating device. However, Swift taught a server (target device) creates a challenge containing an identifier generated by the server C-R component and sends it to the client (initiating device) (Col. 4, Ln 1~6).

Napster also did not explicitly teach generating a connection reply value according to the received connection challenge value by the connection initiating device and sending it to the connection target device. However, Swift taught the client responds to the challenge by sending a response and session key (Col. 4, Ln 6~8).

Napster also did not explicitly teach sending a connection response message from the connection target device to the connection initiating device according to the connection reply value. However, Swift taught server receives the challenge response for authentication between the server and client (Col. 4, Ln 11~15).

Napster also did not explicitly teach judging a result of connection according to the connection response message by the connection initiating device, if the connection response message includes information on a successful connecting result, establishing a peer-to-peer connection between the connection initiating device and the connection target device. However, Swift taught server verifies the authentication based on the challenge responses and authorizes or rejects connections with the server (Col. 4, Ln 11~24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to combine, Swift's secure communication system into Napster's system, to allow challenge authentication between the connection initiating device and the connection target device to be exchanged, generating acknowledgments by the connection initiating device according to the challenge key generated by the connection target device, judging the acknowledgments, and establishing connection between the peer devices based on the acknowledgments, as this would provide protection to peer devices from unsanctioned connections, mitigate hack attacks on the local network or in close proximity to the devices and concealment from unauthorized parties.

Regarding Claim 2,

Napster taught said connection setting to devices is a direct setting through a human-machine interface on devices or a remote setting through other devices having human-machine interfaces (Pg.19, Msg. 810, request a change in server configuration variables).

Regarding Claim 3.

Napster taught said connection initiating device is a service providing device or a service utilizing device, and said connection target device is a service utilizing device or a service providing device (It is well-known in the art, Napster is a file-sharing peer-to-peer platform providing music file sharing service to users).

Regarding Claim 4.

Napster taught with respect to the device connecting request in said step a, the message fields include type of message, serial number of message, user name and serial number of connection request (Pg. 2, Msg. 2, message consists of nickname, password, port, client-info, link-type, and num fields).

Regarding Claim 5.

Napster taught wherein in said step b, said connection allowed further includes the steps of:

judging whether the number of connection initiating devices currently connected with the connection target device has reached the upper limit of the allowed connection number (Pg. 15, Msg. 619, uploading client sends message to notify downloader limit was reached); and

judging whether the user information of the connection initiating device is in the connection target device (Pg. 6, Msg. 207 and 208, Napster by default allows all connections to be made with users possessing the file in interest. Napster also allows



users to add other users to their hotlist which combined with Message 209 or Message 210 allows notifications of hotlist user connection or disconnection).

Regarding Claim 6,

Napster taught when the number of devices connected with the connection target device reaches the upper limit of the allowed number of connected devices, a connection target device that is subsequently overloaded sends a connection response message to the connection initiating device (Pg. 15, Msg. 619, uploading client sends message to notify downloader limit was reached and no further simultaneous downloads are allowed); and

when there is no user information of the connection initiating device is present in the connection target device, the connection target device sends a connection response message denying access to the connection initiating device (Pg. 9, Msg. 320 and 321, Although Napster by default allows all connections to be made with users possessing the file in interest, Napster also allow users to ignore others by adding them into the ignore list. Any connections requesting from users in the ignore list will trigger a denial access message).

Regarding Claim 7,

Swift further taught the connection challenge value sent in said step b includes type of message, serial number of message, serial number of connection response message, connecting result, authenticating algorithm identifier and challenge value (Col. 8, Ln 13~22).

Regarding Claim 8,

Swift further taught the message of challenge reply value sent in said step c includes type of message, serial number of message, serial number of connection

request and the reply value constituted by a reply character string (Col. 7, Ln 63~Col. 8, Ln 1~12).

Regarding Claim 9,

Napster taught with respect to the connection response message in said step d, the message fields include type of message, serial number of message, serial number of connection response message and connecting result (Pg. 5, Msg. 203 and 204).

Regarding Claim 10,

Napster taught the connection target device and the connection initiating device increase the number of currently connected devices by one (Pg. 8, Msg. 218).

Regarding Claim 11,

Napster taught substantially all the limitations of claim 1, however, did not specifically teach in step b, said connection target device also saves the connection challenge value; in said step c, said connection initiating device retrieves key information corresponding to the connection challenge value and generates said connection reply value together with the connection challenge value; in said step d, the connection target device judges validity of the connection reply value according to the saved connection challenge value and the key corresponding to this connection challenge value, and when it is valid, sends a connection response message about success of connection to the connection initiating device, and when it is invalid, sends a connection response message about denial of access to the connection initiating device.

Swift taught the server verifies the user's identity by sending the challenge response from the client to the Domain Controller (database of user identifier). The domain controller determines the user identification and encrypts the response back to

the client and thus allowing the session connection. if the user isn't valid, a denial access is given (Col. 8, Ln 38~52).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to combine, Swift's secure communication system into Napster's system, to allow a connection target device save the connection challenge value and further performing steps c and d. See motivation of Claim 1.

Regarding Claim 12,

Napster taught substantially all the limitations of claim 1, however, did not specifically teach after said step c), a transmission key is generated between the connection initiating device and the connection target device which have established a peer-to-peer connection there between in accordance with an encryption method defined in a security mechanism, and is used to transmit subsequent data.

Swift taught the client responds to a challenge by sending a response and the session key to the server. The response is encrypted along with the client's identifier so as to permit a secure communication with the server (Col. 4, Ln 6~8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to combine, Swift's secure communication system into Napster's system, to allow a generated transmission key between the client and server be encrypted. See motivation of Claim 1.

Regarding Claim 13,

Napster taught with respect to the connection disconnecting request message in said step f, the message fields include type of message, serial number of message and reason for disconnecting connection (Pg. 9, Msg. 316).

Regarding Claim 14,  
Napster taught while the connection target device and the connection initiating device sends and receives the connection disconnecting request, the number of currently connected devices **is decreased** by one (Pg. 8, Msg. 219).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **HEE SOO KIM** whose telephone number is (571)270-3229. The examiner can normally be reached on **Monday - Thursday 8:00AM - 5:30PM EST**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ario Etienne** can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. K./  
10/10/08

/ARIO ETIENNE/  
Supervisory Patent Examiner, Art Unit 2457